



INTERIOR BOARD OF INDIAN APPEALS

Richard Johnson, Spokesperson for Leech Lake Petitioners v. Acting Principal Deputy
Assistant Secretary - Indian Affairs

42 IBIA 216 (02/13/2006)

Reconsideration denied:

43 IBIA 57



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
801 NORTH QUINCY STREET
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RICHARD JOHNSON,	:	Order Docketing and
SPOKESPERSON FOR LEECH	:	Dismissing Appeal
LAKE PETITIONERS,	:	
Appellants,	:	
	:	
v.	:	Docket No. IBIA 06-36-A
	:	
ACTING PRINCIPAL DEPUTY	:	
ASSISTANT SECRETARY -	:	
INDIAN AFFAIRS,	:	
Appellee.	:	February 13, 2006

This is an appeal from a December 29, 2005 decision of the Acting Principal Deputy Assistant Secretary - Indian Affairs (Principal Deputy), concerning petitions for a Secretarial election to recall three members of the Reservation Business Committee (RBC) of the Leech Lake Band (Band) of the Minnesota Chippewa Tribe (Tribe). Appellants, through spokesperson Richard Johnson, are Band members who petitioned for the recall election. For the reason discussed below, the Board docketed this appeal, but dismisses it for lack of jurisdiction.

Based on materials submitted with the notice of appeal, it appears that Appellants circulated petitions, pursuant to the Tribe's constitution, to recall three RBC members. The petitions were presented to the RBC, which dismissed all of the charges. Invoking another provision in the Tribe's constitution, Appellants requested that the Secretary authorize a Secretarial election to place the recall matter before the Band's members. ^{1/} On December 29, 2005, after some intervening correspondence between Appellants and the Bureau of Indian Affairs (BIA), the Principal Deputy wrote to Appellants stating that the

^{1/} Part 82 of 25 C.F.R. provides procedures for the "submission of petitions requesting the Secretary [of the Interior] or the Commissioner [of Indian Affairs] to call elections to amend tribal constitutions, to issue charters pursuant to a Federal Statute, and for such other purposes where [tribal] constitutions and charters provide for petitioning to effect action by the Secretary or Commissioner." 25 C.F.R. § 82.2; see also id. § 82.3 (scope of Part 82).

RBC had taken action on Appellants' petitions by dismissing the charges, and that the Principal Deputy considered that action "final" under the Tribe's constitution. Therefore, the Principal Deputy returned Appellants' correspondence and petitions without further action.

Appellants appealed to the Board.

We express no opinion on the merits of this appeal because we conclude that the Board lacks jurisdiction to review the matter.

As the Board has previously held, 25 C.F.R. § 82.10 sets out appeal procedures for decisions issued under Part 82, and the Board is not part of that review process. Allison v. Acting Superintendent, Eastern Nevada Field Office, 39 IBIA 71 (2003); Split Family Support Group v. Northwest Regional Director, 36 IBIA 5, 6 (2001). The Principal Deputy's decision was issued under the authority of Part 82, and thus the Board lacks jurisdiction to review that decision.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, the Board docketed this appeal, but dismisses it for lack of jurisdiction.

I concur:

// original signed
Steven K. Linscheid
Chief Administrative Judge

// original signed
Charles E. Breece
Acting Administrative Judge